

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

**GENARO ESPARZA and
SAN JUANITA ESPARZA**

Plaintiffs,

v.

**STATE FARM LLOYDS and
JAY OSPINA**

Defendants.

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CASE NO. 5:15-cv-00109

DEFENDANTS' NOTICE OF REMOVAL

Defendants State Farm Lloyds and Jay Ospina file this Notice of Removal.

PROCEDURAL BACKGROUND

1. Plaintiffs, Genaro Esparza and San Juanita Esparza, filed this action on April 27, 2015 against State Farm Lloyds and Jay Ospina in the 111th Judicial District Court of Webb County, Texas. That case was docketed under cause number 2015CVF001414 D2 (the "State Court Action"). Plaintiffs' Original Petition filed in the State Court Action included a jury demand.

2. State Farm Lloyds was served with process on May 7, 2015. No citation was issued for Jay Ospina. Both Defendants join in and consent to this removal. This Notice of Removal is filed within 30 days after the receipt by the defendants of a copy of Plaintiffs' initial pleading and the service of summons upon the defendants

3. State Farm Lloyds files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 111th Judicial District Court of Webb County, Texas to the United States District Court for the Southern District of Texas, Laredo Division. Venue is

proper in this division under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.

4. All documents required by Local Rule 81 to be filed with this Notice of Removal are attached and indexed in Exhibit A. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants in the State Court Action are attached to this notice as Exhibit B. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of Defendants' Original Notice of Removal will be promptly given to all parties and to the clerk of the 111th Judicial District Court of Webb County, Texas.

BASIS FOR REMOVAL

5. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all real parties in interest (Plaintiffs, State Farm Lloyds, and Jay Ospina) and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. At the time this action was commenced, Plaintiffs Genaro Esparza and San Juanita Esparza were, and still are, residents and citizens of Webb County, Texas.

7. Defendant State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois, Colorado, and Georgia. State Farm Lloyds is a "Lloyd's Plan" organized under chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens and residents of Illinois, Colorado, and Georgia, thereby making State Farm Lloyds a citizen of Illinois, Colorado, and Georgia for diversity purposes. *See Royal Ins. Co. of Am. v. Quinn-L*

Capital Corp., 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

8. Defendant, Jay Ospina was, at the time the action was commenced, and still is, a resident and a citizen of Florida.

9. Plaintiffs' Original Petition expressly alleges damages in excess of \$200,000 satisfying the "amount in controversy" requirement of 28 U.S.C. § 1332(a). *See* Petition at ¶ 96.

PRAYER

Defendants respectfully request that the State Court Action be removed and placed on this Court's docket for further proceedings. Defendants also request any additional relief to which they may be entitled.

Respectfully submitted,

/s/ Charles W. Downing

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CERTIFICATE OF SERVICE

This will certify that a true and correct copy of this document was served on all counsel of record on the 26th day of May, 2015, as indicated below:

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